

REMARKS

Applicant, by the amendments presented above and the arguments presented below, has made a concerted effort to present claims which clearly define over the prior art of record, and thus to place this case in condition for allowance. Claims 1-4 are currently pending. Claim 5 has been cancelled herein.

Elections/Restrictions

Applicant has previously withdrawn claims 4 and 5 in response to a Restriction Requirement. Applicant has cancelled claim 5 herein. Claim 4 is dependent on independent claim 1. As Applicant states herein that independent claim 1 as amended is in condition for allowance, Applicant requests that claim 4 be reinstated and allowed. Applicant notes that amendments will have to be made to claim 4 before allowance of same in view of the amendments made to independent claim 1 should independent claim 1 be allowed by the Examiner.

Claim Rejections – 35 U.S.C. §112

The Examiner rejected claims 1-3 under 35 U.S.C. 112, second paragraph. Applicant has amended independent claim 1 to claim a combination of an extensible and retractable pole assembly and a retainer assembly. As such, Applicant has also amended claims 2 and 3 accordingly as they depend on independent claim 1. Applicant states that the amendments to claims 1-3 overcome the rejection under 35 U.S.C. 112, second paragraph and, thus, requests reconsideration and allowance of claims 1-3 in view thereof.

Claim Rejections - 35 U.S.C. §103

Claims 1 and 2 were rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 4,976,371 to Wise et al. in view of United States Patent No. 3,893,725 to Coulter et al. Applicant respectfully traverses this rejection.

Independent claim 1, as amended, requires a combination of an extensible and retractable pole assembly having an outer pole and at least one inner pole configured to be extensible and retractable within the outer pole, and a retainer assembly configured to retain the at least one inner pole within the outer pole when the at least one inner pole is retracted within the outer pole. Neither the Wise et al. reference nor the Coulter et al. reference disclose or even suggest such a combination. Rather, the Wise et al. and Coulter et al. reference both disclose devices for securing or latching a lid or cover over a receptacle or container, namely devices for securing a garbage can lid to a garbage can. Therefore, in view of the amendment to independent claim 1, Applicant states that independent claim 1 is not obvious in view of the combination of the Wise et al. and the Coulter et al. references. Applicant thus respectfully requests reconsideration and allowance of independent claim 1.

As Applicant states that independent claim 1 is now in condition for allowance, Applicant respectfully requests reconsideration and allowance of dependent claim 2.

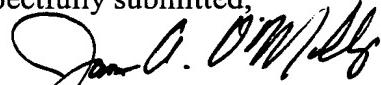
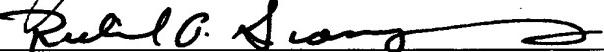
Allowable Subject Matter

The Examiner indicated that claim 3 would be allowable if rewritten to overcome the rejection under 35 U.S.C. 112, second paragraph and to include all of the limitations of the base claim and any intervening claims. Claim 3 is dependent on independent claim 1, which Applicant states is in condition for allowance. Therefore, at this time, Applicant has not amended claim 3 into independent form to include the limitations of independent claim 1.

Rather, Applicant respectfully requests reconsideration and allowance of claim 3 in view of Applicant's statement that independent claim 1 is in condition for allowance.

In view of the above Amendments and Remarks, Applicant respectfully submits that the claims of the application are allowable over the rejections of the Examiner. Should the Examiner have any questions regarding this Amendment, the Examiner is invited to contact one of the undersigned attorneys at (312) 704-1890.

Respectfully submitted,


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